

E3RVRODN

Arraignment

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

10 CR 905 (LTS)

5 MANUEL RODRIGUEZ-PEREZ,

6 Defendant.

7 -----x

8 New York, N.Y.

9 March 27, 2014

4:40 p.m.

10 Before:

11 HON. LAURA TAYLOR SWAIN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA,

16 United States Attorney for the
Southern District of New York

17 AMIE N. ELY

ANDREW C. ADAMS

18 Assistant United States Attorneys

19 RICHARD W. LEVITT

PETER E. QUIJANO

20 Attorneys for Defendant

21 ALSO PRESENT: PATRICIA TRIANA, Spanish Interpreter

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1 (Case called)

2 THE DEPUTY CLERK: This case is United States of
3 America v. Manuel Rodriguez-Perez.

4 THE COURT: Counsel.

5 MS. ELY: Good afternoon, your Honor.

6 Amie Ely for the government.

7 With me at counsel table is AUSA Andrew Adams.

8 THE COURT: Good afternoon, Ms. Ely and Mr. Adams.

9 MR. LEVITT: And for Mr. Rodriguez, Richard Levitt and
10 Peter Quijano.

11 Good afternoon, Judge.

12 MR. QUIJANO: Good afternoon, your Honor.

13 THE COURT: Good afternoon, Mr. Levitt and Mr.
14 Quijano. Good afternoon, Mr. Rodriguez-Perez.

15 MR. QUIJANO: If your Honor please, present in court
16 also is the official court interpreter. Mr. Rodriguez-Perez
17 has indicated he does not need the services of the interpreter.
18 We believe most of the times we've appeared he has not used
19 one. At any rate, he insists that he is fine; to proceed
20 without the interpreter at this point.

21 THE COURT: Are you confident, based on your
22 interactions with Mr. Rodriguez-Perez, that we are able to
23 proceed with appropriate English-language comprehension without
24 the interpreter?

25 MR. QUIJANO: I am, your Honor.

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1 I've also advised him that if at any time he feels he
2 is missing something, he should just alert me, and obviously
3 I'll tell the Court. He believes he can proceed. I agree with
4 him.

5 THE COURT: And so, Mr. Rodriguez, do you want me to
6 ask the interpreter to stay here on a standby basis?

7 THE DEFENDANT: (In English) Yeah, that's okay.

8 THE COURT: And so, Madam Interpreter, if you don't
9 mind, I would ask that you stay.

10 Mr. Rodriguez, if at any time you believe you need the
11 assistance of the interpreter, just let Mr. Quijano know or
12 raise your hand.

13 And at this point, I'm going to ask that the
14 interpreter take the interpretation oath in case she needs to
15 begin working.

16 (Interpreter sworn)

17 THE COURT: Thank you.

18 Mr. Rodriguez, are these members of your family here
19 in court today?

20 THE DEFENDANT: No.

21 THE COURT: No? Sorry.

22 Good afternoon, ladies and gentlemen. I apologize for
23 the misunderstanding. Thank you for coming to court today.

24 All right. So we have a new superseding indictment, a
25 38th superseding indictment.

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1 Ms. Ely, would you summarize for the record the
2 differences from the S31.

3 MS. ELY: Yes, your Honor.

4 The primary difference is the addition of a total of
5 five new attempted murders which are charged as predicate acts
6 in Count One, which now alleges 23 separate predicate acts and
7 five additional murders which are alleged both as predicate
8 acts in Count One and as various substantive counts throughout
9 the indictment.

10 Would the Court like for me to explain in more detail
11 the additional charges?

12 THE COURT: Yes, please.

13 MS. ELY: Your Honor, the first additional charge as
14 to Manuel Rodriguez is charged in Count One as the second
15 predicate act. It pertains to the attempted murder and
16 conspiracy to murder an individual referred to as Victim 1 from
17 on or about July 16th, 1996, to 2010. This victim was
18 originally alleged as the intended victim of a murder that
19 Orlando Rodriguez was charged with only in the S31 indictment.
20 But the government's investigation has revealed that Manuel
21 Rodriguez made attempts to later locate and kill this victim.

22 The next addition to the indictment is Predicate Act
23 3, which alleges the attempted murder of a victim on or about
24 August 21st, 1996, here in the New York City area.

25 Next is Predicate Act 4, which alleges the attempted

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1 murder and conspiracy to murder Victims 3 and 4, as they're
2 named in the indictment, on or about June 27th, 1997, here in
3 the New York City area.

4 The next addition is the attempted murder and
5 conspiracy to murder a victim labeled as Victim 5 on or about
6 January 3rd, 1998. This is alleged as Predicate Act 6. This
7 also occurred here in the New York City area.

8 The next addition is alleged both as Predicate Act 10
9 and as substantive counts in the indictment; specifically, the
10 murder and conspiracy to murder Noel Herrera on or about
11 December 29th, 2001. That occurred in the Dominican Republic.

12 The next is alleged as Predicate Act 11 in the first
13 count of the indictment, as well as counts that are
14 substantively charged throughout the indictment. This is the
15 murder and conspiracy to murder Kelly Perez, whose nickname was
16 Red, on or about September 16th, 2002, here on 156th Street in
17 Manhattan.

18 The next alleged is Predicate Act 12, which is the
19 murder and conspiracy to murder Marino Molina on or about
20 January 11th, 2003, in the Dominican Republic. It's also
21 charged as various substantive counts throughout the
22 indictment.

23 The next is alleged as Predicate Act 15 in Count One.
24 It's the murder and conspiracy to murder Manuel Rivas, whose
25 nickname was Tony Almono. That occurred on or about October

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1 29th, 2005, in the Dominican Republic. That's also alleged as
2 substantive counts in the indictment.

3 And finally, Predicate Act 19, which is the murder and
4 conspiracy to murder Sadelino Delgado Garcia on or about May
5 1st, 2011. That occurred in the Dominican Republic, and it
6 occurred while Mr. Rodriguez was incarcerated in this case.

7 THE COURT: Thank you, Ms. Ely.

8 Mr. Rodriguez and his counsel, please stand.

9 Messrs. Quijano and Levitt, have you reviewed the S38
10 indictment?

11 MR. LEVITT: Yes.

12 THE COURT: And have you discussed it with
13 Mr. Rodriguez?

14 MR. LEVITT: Yes. But he hasn't read it yet, but
15 we've discussed it. But we're prepared to enter a not-guilty
16 plea.

17 THE COURT: And so you believe he's sufficiently
18 familiar with the new allegations in the indictment to make the
19 entry of a not-guilty plea at this point?

20 MR. LEVITT: Correct.

21 THE COURT: And informed.

22 MR. LEVITT: Correct.

23 THE COURT: As you know, it is my practice also to
24 address the defendant directly. So, Mr. Rodriguez, would you
25 please stand.

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1 Would you please state your full name.

2 THE DEFENDANT: (In English) Excuse me?

3 THE COURT: Would you please state your full name.

4 THE DEFENDANT: (In English) Manuel Jovanni Rodriguez.

5 THE COURT: Mr. Rodriguez, have your attorneys
6 discussed this new indictment, which is No. S38, with you?

7 THE DEFENDANT: (In English) Yes.

8 THE COURT: Do you understand the charges against you?

9 THE DEFENDANT: (In English) Yes, I do, your Honor.

10 THE COURT: If you want me to, I can read the whole
11 indictment to you out loud here in court. Do you want me to
12 read it to you?

13 THE DEFENDANT: (In English) I will prefer no, if
14 that's okay with you, your Honor.

15 THE COURT: It's fine. It is your choice.

16 And so how do you plead to the charges against you in
17 the indictment, not guilty or guilty?

18 THE DEFENDANT: (In English) Not guilty.

19 THE COURT: Thank you. You can be seated.

20 Ms. Ely, would you please bring me up to speed on the
21 status of the government's process with Main Justice, and how,
22 if at all, it's affected by the superseding indictment.

23 MS. ELY: Your Honor, we've been awaiting a mitigation
24 submission from defense counsel on the charges that were
25 originally brought in July 2012. I, in fact, advised defense

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1 counsel several weeks ago that we expected to return this
2 superseding indictment so that they can begin addressing the
3 new charges in the S38 indictment.

4 The government's practice is generally not to make any
5 recommendation until we've received mitigation submissions in
6 cases as serious as this one, and so we have not yet begun to
7 have much of a substantive discussion with our counterparts in
8 the District of Columbia.

9 I understand from defense counsel -- and I'll let them
10 speak for themselves -- that they expect that they may have a
11 mitigation submission to us addressing all of the conduct in
12 the S38 indictment around July of this year.

13 THE COURT: Thank you.

14 Mr. Quijano.

15 MR. QUIJANO: If your Honor please, that's accurate.
16 I think that's realistic.

17 THE COURT: Do you have a sense as to whether it's
18 early July, late July?

19 MR. QUIJANO: I'm always optimistic, your Honor, but,
20 under the circumstances, I actually will have a better idea
21 probably in a week or two.

22 THE COURT: Very well then.

23 Is there anything else that you wish to raise with the
24 Court at this point from the defense perspective?

25 MR. LEVITT: No, your Honor.

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1 MR. QUIJANO: No, your Honor.

2 THE COURT: Thank you.

3 I believe we have our next conference scheduled for
4 May 19th. Is that correct, Ms. Ng?

5 May 19th is the scheduled start date for a trial. So
6 we must have excluded through that date in general in
7 connection with the trial. And so we should set a conference
8 with respect to Mr. Rodriguez and -- Mr. Quijano?

9 MR. QUIJANO: Can I have a moment?

10 THE COURT: Yes.

11 (Pause)

12 MS. ELY: Your Honor, it sounds like June 5th at 2
13 o'clock might work for the parties, if that's available on the
14 Court's calendar.

15 THE DEPUTY CLERK: Thursday, June 5th, 2014, at 4:30.

16 We're on trial. We could do it at 12:45.

17 MR. QUIJANO: Please.

18 THE COURT: All right then.

19 I'll set the next conference for June 5th at 12:45.

20 Ms. Ely, is there a request for exclusion from speedy
21 trial computations?

22 MS. ELY: Yes, your Honor.

23 As I told defense counsel, I expect I'll be producing
24 some discovery by as early as this coming Monday, and will
25 endeavor to produce the rest of the discovery that relates to

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1 the new incidents by around April 28.

2 In light of that and in light of the fact that defense
3 counsel will be working on the mitigation submission, the
4 government believes that it is in the interest of justice to
5 exclude time from the speedy trial calculations.

6 THE COURT: Is there any objection?

7 MR. LEVITT: No objection.

8 THE COURT: The request is granted. For the reasons
9 summarized by Ms. Ely, I find that the ends of justice served
10 by the granting of an exclusion from speedy trial computations
11 for the period from today's date through June 5th, 2014
12 outweigh the best interests of the public and the defendant in
13 a speedy trial. Accordingly, that time period is excluded
14 prospectively.

15 Mr. Quijano, should we, going forward, have an
16 interpreter present for conferences for Mr. Rodriguez or no?

17 MR. QUIJANO: Your Honor, I think in the abundance of
18 caution, especially given the nature of these proceedings, I
19 think it's best to have one here.

20 THE COURT: Then we will.

21 MR. QUIJANO: Thank you, your Honor.

22 THE COURT: Thank you. Ms. Ely?

23 MS. ELY: Your Honor, one other thing.

24 We did endeavor to notify at least the victims in the
25 New York City area. I believe that the individuals who are in

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1 the courtroom are members and friends of the victims in this
2 case.

3 THE COURT: Thank you.

4 Again, good afternoon. And thank you all for coming
5 to court today.

6 And so our next conference will be June 5th at 12:45.

7 We are adjourned.

8 * * *